

ASSEMBLY BILL

No. 2307

Introduced by Assembly Member Price

February 21, 2008

An act to amend Section 2889.5 of the Public Utilities Code, relating to telephone service.

LEGISLATIVE COUNSEL'S DIGEST

AB 2307, as introduced, Price. Telephone services: change in telephone service provider.

Existing law prohibits a telephone corporation, or any person, firm, or corporation representing a telephone corporation, from changing a subscriber's telephone service provider without specified verification, including for residential service, independent 3rd-party verification meeting specified requirements, and notification by the United States Postal Service.

This bill would instead require telephone corporations to offer customers the option of verifying the subscriber's decision to change the residential telephone service provider by independent 3rd-party verification and notification by United States mail.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2889.5 of the Public Utilities Code is
- 2 amended to read:
- 3 2889.5. (a) No telephone corporation, or any person, firm, or
- 4 corporation representing a telephone corporation, shall make any

1 change or authorize a different telephone corporation to make any
2 change in the provider of any telephone service for which
3 competition has been authorized of a telephone subscriber until
4 all of the following steps have been completed:

5 (1) The telephone corporation, its representatives or agents shall
6 thoroughly inform the subscriber of the nature and extent of the
7 service being offered.

8 (2) The telephone corporation, its representatives or agents shall
9 specifically establish whether the subscriber intends to make any
10 change in his or her telephone service provider, and explain any
11 charges associated with that change.

12 (3) For sales of residential service, ~~the subscriber's~~ *subscriber*
13 *shall be offered verification of the subscriber's decision to change*
14 *his or her telephone service provider—shall be confirmed* by an
15 independent third-party verification company. For purposes of this
16 provision, the confirmation by a third-party verification company
17 shall be made as follows:

18 (A) The third-party verification company shall meet each of the
19 following criteria:

20 (i) Be independent from the telephone corporation that seeks to
21 provide the subscriber's new service.

22 (ii) Not be directly or indirectly managed, controlled, or directed,
23 or owned wholly or in part, by the telephone corporation that seeks
24 to provide the new service or by any corporation, firm, or person
25 who directly or indirectly manages, controls, or directs, or owns
26 more than 5 percent of the telephone corporation.

27 (iii) Operate from facilities physically separate from those of
28 the telephone corporation that seeks to provide the subscriber's
29 new service.

30 (iv) Not derive commissions or compensation based upon the
31 number of sales confirmed.

32 (B) The telephone corporation seeking to verify the sale shall
33 do so by connecting the subscriber by telephone to the third-party
34 verification company or by arranging for the third-party verification
35 company to call the subscriber to confirm the sale.

36 (C) The third-party verification company shall obtain the
37 subscriber's oral confirmation regarding the change, and shall
38 record that confirmation by obtaining appropriate verification data.
39 The record shall be available to the subscriber upon request.
40 Information obtained from the subscriber through confirmation

1 shall not be used for marketing purposes. Any unauthorized release
2 of this information is grounds for a civil suit by the aggrieved
3 subscriber against the telephone corporation or its employees who
4 are responsible for the violation.

5 (D) Notwithstanding subparagraphs (A), (B), and (C), a service
6 provider shall not be required to comply with these provisions
7 when the customer directly calls the local service provider to make
8 changes in service providers. However, a service provider shall
9 not avoid the verification requirements by asking a subscribing
10 customer to contact a local exchange service provider directly to
11 make any change in the service provider. A local exchange service
12 provider shall be required to comply with these verification
13 requirements for its own competitive services. However, a local
14 exchange service provider shall not be required to perform any
15 verification requirements for any changes solicited by another
16 telephone corporation.

17 (4) For sales of residential service ~~to which~~ *if the customer*
18 *requests verification, pursuant to paragraph (3)* ~~applies~~, the
19 telephone corporation seeking to verify the change in service, in
20 addition to the requirements of paragraph (3), shall notify the
21 subscriber by United States Postal Service that the subscriber's
22 telephone service provider has been changed. The service provider
23 that initiated the change shall send that notice within 14 days of
24 the date of the change. The notice shall provide the subscriber with
25 clear, legible notice of the change in service provider, and shall
26 include a customer service telephone number for the subscriber to
27 call if the subscriber did not authorize the change in service.

28 (5) *If the customer does not request verification pursuant to*
29 *paragraphs (3) and (4), confirmation shall be given pursuant to*
30 *Section 1120 of Part 64 of Title 47 of the Code of Federal*
31 *Regulations.*

32 ~~(5)~~

33 (6) For sales of all nonresidential services, the subscriber's
34 decision to change his or her service provider shall be confirmed
35 through any of the following means:

36 (A) Independent third-party verification, as set forth in paragraph
37 (3) of subdivision (a).

38 (B) The telephone corporation shall mail to the subscriber an
39 information package seeking confirmation of his or her change in
40 the telephone corporation. The information package shall describe

1 the new service and shall include a postage prepaid postcard or
2 mailer that the subscriber can use to deny, cancel, or confirm a
3 service order, as soon as possible, and wait 14 days after the
4 information package is mailed before making the change in the
5 telephone corporation. The telephone corporation shall make the
6 change only if the subscriber does not cancel the change in service
7 order.

8 (C) Verify the subscriber's change in his or her telephone service
9 provider by obtaining the subscriber's signature on a document
10 fully explaining the nature and extent of the action. The document
11 shall be a separate document whose sole purpose is to explain the
12 nature and extent of the action.

13 (D) Obtain the subscriber's authorization through an electronic
14 means that takes the information, including the calling number,
15 and confirms the change to which the subscriber has given his or
16 her consent.

17 ~~(6)–~~

18 (7) Where the telephone corporation obtains a written order for
19 service, the document shall thoroughly inform the subscriber of
20 the nature and extent of the action. The subscriber shall be
21 furnished with a copy of the signed document. The subscriber by
22 his or her signature on the document shall indicate a full
23 understanding of the relationship being established with the
24 telephone corporation. ~~When~~ If a written subscriber solicitation or
25 other document contains a letter of agency authorizing a change
26 in service provider, in combination with other information
27 including, but not limited to, inducements to subscribers to
28 purchase service, the solicitation shall include a separate document
29 whose sole purpose is to explain the nature and extent of the action.
30 If any part of a mailing to a prospective subscriber is in language
31 other than English, any written authorization contained in the
32 mailing shall be sent to the same prospective subscriber in the
33 same language.

34 ~~(7)–~~

35 (8) The telephone corporation shall retain a record of the
36 verification of the sale for at least one year. These records shall
37 be made available to the subscriber, the Attorney General, or the
38 commission upon request.

39 (b) If a residential or business subscriber that has not signed an
40 authorization notifies the telephone corporation within 90 days

1 that he or she does not wish to change telephone corporations, the
2 subscriber shall be switched back to his or her former telephone
3 corporation at the expense of the telephone corporation that
4 initiated the change.

5 (c) For purposes of this section, competitive services are those
6 services where subscribers have the ability to presubscribe to a
7 telephone service provider.

8 (d) When a subscriber changes telephone service providers, the
9 change shall be conspicuously noticed on the subscriber's bill.
10 Notice in the following form is deemed to comply with this
11 subdivision:

12 "NOTICE: Your local (or long distance) telephone service provider
13 has been changed from (name of prior provider) to (name of current
14 provider).

15 Cost of change: \$ ____."

16 (e) Any telephone corporation that violates the verification
17 procedures described in this section shall be liable to the telephone
18 corporation previously selected by the subscriber in an amount
19 equal to all charges paid by the subscriber after the violation.

20 (f) In addition to the liability described in subdivision (e), any
21 telephone corporation that violates the verification procedures
22 described in this section shall credit to a subscriber any charges
23 paid by the subscriber in excess of the amount that the subscriber
24 would have been obligated to pay had the subscriber's telephone
25 service not been changed. The commission shall adopt regulations
26 to govern credits to subscribers pursuant to this subdivision.

27 (g) The remedies provided by this section are in addition to any
28 other remedies available by law.

29 (h) As described in federal law, no telephone corporation, or
30 any person, firm, or corporation representing a telephone
31 corporation, shall make any change or authorize a different
32 telephone corporation to make any change in the provider of any
33 telephone service for which competition has been authorized of a
34 telephone subscriber without having on file, or having instituted
35 reasonable steps designed to obtain, signed, dated orders for service
36 from the subscriber. All orders shall be in the form prescribed in
37 federal law for letters of agency. As described in federal law, the
38 telephone corporation is responsible for charges associated with
39 disputed changes in telephone service for which it cannot produce
40 a signed, dated order for service from the subscriber. This

- 1 subdivision applies to all intrastate services for which competition
- 2 has been authorized.

O